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Paper 122

ENTERED: 22 September 2010

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,496

CALIFORNIA INSTITUTE OF TECHNOLOGY  
(5,821,058),  
Junior Party,

v.

ENZO LIFE SCIENCES, INC.  
(08/486,069),  
Senior Party.

Before: SALLY GARDNER LANE, RICHARD TORCZON, and  
MICHAEL P. TIERNEY, *Administrative Patent Judges*.

TORCZON, *Administrative Patent Judge*.

JUDGMENT

Bd.R. 127

In a decision on motions,<sup>1</sup> all of the involved claims of the senior party (Enzo) were held to be unpatentable, including on a threshold issue. Accordingly, it is appropriate to enter judgment against Enzo at this time.

JUDGMENT is ENTERED AGAINST Enzo for count 1;<sup>2</sup> and

All claims of Enzo's involved 08/486,069 application are FINALLY REFUSED<sup>3</sup> except claims 1411-1487, 1490-1491, 1493-1499, 1504-1516, 1518, 1520-1525, 1527, 1530-1539, 1541, 1544-1568, 1570-1581, 1705-1718, 1727, 1730-1731, 1749-1757, 1760-1765 and 1784-1794.

A copy of this judgment will be entered in the administrative records of the involved patent and the involved application.

cc:

For the California Institute of Technology: Jerry D. Voight, FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., of Palo Alto, California, with Steven P. O'Connor, of Reston, Virginia.

For Enzo Life Sciences, Inc.: Robert M. Schulman, HUNTON & WILLIAMS, of Washington, D.C., with Eugene C. Rzucidlo, of New York City, New York; Scott F. Yarnell, of McLean, Virginia; and Robert C. Lampe, III, of Washington, D.C.; and with Ronald C. Fedus, ENZO BIOCHEM, INC., New York City, New York.

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<sup>1</sup> Paper 120.

<sup>2</sup> Paper 1.

<sup>3</sup> 35 U.S.C. 135(a).